

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RICARDO D. ARGUELLS,	§
	§
Petitioner Below-	§ No. 326, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 05M-09-106
Respondent Below-	§ Cr. ID 0308013535
Appellee.	§

Submitted: July 26, 2006
Decided: August 14, 2006

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 14th day of August 2006, it appears to the Court that:

(1) On June 27, 2006, the Court received Ricardo Arguells' (Arguells) notice of appeal from a Superior Court order, dated October 26, 2005, which denied Arguells' petition for a writ of habeas corpus. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before November 28, 2005.

(2) The Clerk issued a notice, pursuant to Supreme Court Rule 29(b), directing Arguells to show cause why the appeal should not be

dismissed as untimely filed.¹ Arguells filed a response to the notice to show cause on July 11, 2006. He asserts that, shortly after he received the Superior Court's order in 2005, he was moved into a different housing unit in the prison and his personal belongings, including his legal papers, were sent to his home. He contends that his legal papers only came back into his possession in June 2006. He asks the Court to excuse his untimely filing.

(3) The State has filed a reply to Arguells' response. The State argues that time is a jurisdictional requirement² and that a notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.³ Arguells' pro se status does not excuse his failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Because Arguells cannot demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁵

(4) We agree. There is nothing in the record to reflect that Arguells' failure to file a timely notice of appeal in this case is attributable to

¹Del. Supr. Ct. R. 6(a)(ii).

²*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829(1989).

³Del. Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

⁵*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/Henry duPont Ridgely
Justice